IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 12707 of 1993

Between:

Smt. Yerremala Subbamma W/o. Late Yerremala Balanna,

Aged about 30 years, R/o. Chaparevula, Nandyal Taluk &

Mandal, Kurnool District.

..... PETITIONER

AND

1 The Divisional Manager, United India Insurance Co. Ltd
(Subsidary of General Insurance Company of India) Divisional Office

40-439 Station Road, Post Box No. 45, Kurnool-518001.
2 Mandal Revenue officer, Nandyal, Kurnool District.
3 Revenue Divisional Officer, Nandyal.
4 Claims Settlement Commissioner (District Collector) Kurnool.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or order or direction declaring the action of the first respondent in issuing the letter in Ref. No.051100-not Cl.SpC-91/668 dated 26-8-1991 rejecting the application of the petitioner for submitted compensation under Solatium Scheme 1989 as illegal and void and consequently direct the first respondent to pay the compensation amount to the petitioner as sanctioned by the 4th respondent vide Order dated 7-5-1991.

Counsel for the Petitioner: MR.B.D.MAHESWARA REDDY

Counsel for the Respondent No.1:Mr. Ravishankar Jandhyala.

Counsel for the Respondent Nos.2 to 4: Govt. Pleader for Revenue.

The Court made the following :

THE HONOURABLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION No.12707 OF 1993

ORDER:

Heard both the learned counsel.

The petitioner herein, who is the wife of the deceased/husband, who died in an accident occurred on 06.10.1989, filed this writ petition inter-alia seeking a writ of mandamus, challenging the correctness of the impugned order dated 26.08.1991 in Ref.No.051100-not-CI-SPG-91/668 passed by the first respondent herein, rejecting her claim for compensation in pursuance of a scheme on the ground that the application filed is belated and beyond the time prescribed under the scheme.

The case of the petitioner, in brief, is that immediately after the accident and death, she filed an application in December 1989, which was forwarded by the Revenue Divisional Officer, Nandyal to the concerned Mandal Revenue Officer at Nandyal as per the proceedings No.L.Dis 98/90 dated 05.01.1990. Therefore, it cannot be said that the application is barred by time. Under the scheme, the time prescribed is six months and therefore, the immediate action has been duly recommended and hence the rejection of the application on the ground that the same is filed after lapse of one year four months and nine days cannot be accepted.

Considering the submissions made on behalf of both parties and also on perusal of

the material, it is quite evident that soon after the accident the application which has been filed by the petitioner was duly sent as per the proceedings dated 05.01.1990, which is neither disputed nor can be cancelled. Though this Court has sanctioned adjournments quite a number of times for filing counter, no counter affidavit has been filed.

In view of the proceedings of the Revenue Divisional Officer, Nandyal dated 05.01.1990, the very reason as shown for rejection is purely unacceptable and cannot be taken on its face value.

In the circumstances, the writ petition is allowed. The impugned Order dated 26.08.1991 is set aside. The first respondent is directed to settle the claim and make the payment within a period of two months from the date of receipt of a copy of this Order. No costs.

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15.07.2004

cs/skmr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the Fifteenth day of July, Two Thousand and Four.

ASSISTANT REGISTRAR

To

1.The Divisional Manager, United India Insurance Co.Ltd., (Subsidary of General Insurance Company of India), Divisional Office, 40-439 Station Road, Post Box No.45, Kurnool-518 001.

2.The Mandal Revenue Officer, Nandyal, Kurnool District.

3. The Revenue Divisional Officer, Nandyal.

4. The Claims Settlement Commissioner (District Collector), Kurnool.

5. Two C.Cs. to the Government Pleader for Revenue, High Court

Buildings, Hyderabad. (O.U.T.)

6. Two C.D.copies.